

September 1999

GEN-99-27

SUBJECT: Guidance for helping Title IV participants affected by Hurricane Floyd.

REFERENCE: This information supplements guidance provided in the *Student Financial Aid Handbook* and in Disaster Letter 99-28.

Dear Partner:

We recognize the severe impact that Hurricane Floyd and its aftermath has had on Title IV participants located in Federally declared natural disaster areas. As he has done in the past, the Secretary wishes to assist the victims of the hurricane in their recovery by providing certain regulatory relief to students, schools, lenders, and guaranty agencies in their administration of the student financial aid programs under Title IV of the Higher Education Act of 1965, as amended (HEA). This relief is generally applicable to the 1999-2000 award year (July 1, 1999 to June 30, 2000).

This regulatory relief applies to students and their families who, at the time of the disaster, were residing in, employed in, or attending a school located in an area designated as a Federally declared natural disaster area, and to such schools themselves. Those designations are available by state on the Federal Emergency Management Agency's (FEMA) Web site (www.fema.gov/disasters).

This letter supplements the Dear Guaranty Agency Director letter, published on August 5, 1999 as Disaster Letter 99-28, which provided to lenders and guaranty agencies separate guidance on handling borrowers who are in repayment and have been affected by a natural disaster. Loan holders have been authorized to grant affected borrowers an administrative forbearance for up to three months based on a borrower's request for assistance.

A Title IV participant that deviates from otherwise required actions in its administration of the Title IV programs on the basis of the guidance in this letter must document that fact and indicate what alternative procedures were followed. The Secretary provides the following guidance and enforcement relief from regulatory requirements. Discussions are presented alphabetically within each general topic. [Note: All regulatory references are to 34 CFR.]

General Provisions (All Title IV Programs)

- Agreements to Permit Study at Another School (§600.9). If a school is unable to continue to provide a student's eligible program because of the disaster, the Secretary strongly encourages the school to establish a contractual or consortium agreement with another school to enable the student to continue to receive Title IV aid while studying at the second school. The requirements for such an agreement are found in §600.9 of the Institutional Eligibility regulations. Generally, an eligible "home institution" following these requirements will not face potential liabilities concerning written agreements if the school enters into a written agreement with another eligible school for this purpose.

- Cash Management (Part 668 Subpart K). The Secretary will not enforce the usual regulatory requirements regarding Credit Balances, Notices and Authorizations, Excess Cash, and the handling of FFEL Program Fund Proceeds. Specifically:
 - *Credit Balances (§668.164(e))* - The Secretary will allow credit balances to be paid to the student or parent within 30 days instead of 14 days.
 - *Notices and Authorizations (§668.165(a)(3)(i) and §668.165(b)(4)(iii))* - The Secretary will allow the notice that advises a student (or parent) of the crediting of loan funds to the student's account to occur no later than 45 days (instead of 30 days) after such crediting. The Secretary will allow an expanded timeframe, from 14 days to 30 days, to pay funds due a student or parent when that student or parent cancels an authorization to hold Title IV, HEA program funds.
 - *Borrower Request for Loan Cancellation (§668.165(a)(4)(ii))* - The Secretary will allow 60 days rather than 14 days for a borrower to request the return or cancellation of all or a portion of loan proceeds that have been credited to the student's account at the school.
 - *Excess Cash (§668.166(a))* - The Secretary will consider excess cash to be any amount of Title IV, HEA program funds, that a school does not disburse to students or parents by the end of the twenty-first business day (instead of the third business day) following the date the school received those funds from the Secretary. If a school finds it impossible to meet this extended deadline, the Secretary will consider a further extension on a case-by-case basis.
 - *FFELP Funds (§668.167(b)(1))* - The Secretary will allow the time period for the return of FFEL Program funds that have not been delivered to expand to 21 days, instead of 3 days, in cases where the funds were provided by the lender to the school by EFT or master check. The Secretary will allow this period to expand to 45 days, from 30 days, in cases where the funds were provided by the lender to the school by a check payable to the borrower or copayable to the borrower and the school. If a school finds it impossible to meet an extended deadline, the Secretary will consider a further extension on a case-by-case basis.
- Determining the Date of a Student's Withdrawal (§668.22(j)(3)). The Secretary will not enforce the usual regulatory deadlines for complying with the requirement that a school determine the withdrawal date for a student if the school is unable, because of the disaster, to make that determination within the required timeframe. A school will be required to determine that the student has withdrawn within 60 days, instead of 30 days, after the expiration of the earlier of the period of enrollment for which the student has been charged, the academic year in which the student withdrew, or the educational program from which the student withdrew.
- Timely Payment of a Refund (§668.22(j)(4)). The Secretary will not enforce the usual timelines for when a school must pay a refund. A school will be required to determine payment of a refund:
 - within 60 days (instead of 30 days) after the student's withdrawal date, if the student officially withdraws or is expelled; or
 - if the student dropped out, within 60 days (instead of 30 days) of the earliest of:
 - the date the school determines that the student dropped out;
 - the expiration of the academic term in which the student dropped out; or
 - the expiration of the enrollment period for which the student was charged.
- Institutional Eligibility, Financial Responsibility, and Administrative Capability (§668.16, §668.171, and §600.40(a)(1)(iii)). If, in future program reviews or audits, the Secretary finds that a school

temporarily failed to meet the standards of fiscal and administrative capability and the school indicates that this failure was the result of the disaster, the Secretary will carefully consider those circumstances described by the school. He will examine each situation on a "case-by-case" basis and make a determination as part of the audit or program review resolution process. A short-term, temporary closure of a school that is caused by the disaster will not, in itself, cause the school to lose its eligibility.

- Lost Student Records (§668.24). The Secretary recognizes that because of the disaster, records and documentation schools in the disaster area are required to keep on file may no longer be available or legible. Affected schools are required to attempt to reconstruct financial aid application data and award data lost because of the disaster, but will not be held responsible for records and documentation that, because of disaster damage, cannot be reconstructed. The school must document that the records were lost due to the disaster.
- Need Analysis. No special aid received by victims of the disaster from the Federal Government or from the State, for the purpose of providing financial relief, will be counted as income for the purposes of calculating a family's Expected Family Contribution (EFC). This aid may, for example, take the form of grants or low-interest loans.
- Other Resources. No special aid received by victims of the disaster from the Federal Government or from the State, for the purpose of providing financial relief, will be counted as other resources or estimated financial assistance for the purposes of determining need. This aid may, for example, take the form of grants or low-interest loans.
- Overpayments (§668.22(f)). When a school calculates overpayments associated with a student's official or unofficial withdrawal, a school should have justification for a student's incurred noninstitutional costs. These costs may include unusual noninstitutional costs incurred because of the disaster. If a school is unable to collect documentation of incurred costs from a student, the school may make a reasonable assessment of a student's unusual noninstitutional costs incurred because of a natural disaster, and document that assessment.
- Professional Judgment. Section 479A of the HEA specifically gives the financial aid administrator (FAA) the authority to use professional judgment to make adjustments on a "case-by-case" basis to the cost of attendance or to the values of the items used in calculating the Expected Family Contribution (EFC) to reflect the student's special circumstances. The use of professional judgment in Federal need analysis is discussed in the Student Financial Aid Handbook.

The Secretary encourages FAAs to use professional judgment in order to reflect more accurately the financial need of students and families affected by the disaster. An FAA still must make adjustments on a "case-by-case" basis and clearly document the student's file with the reasons for any adjustment.

As usual, any professional judgment decisions made by an FAA that will affect a student's eligibility for a Federal Pell Grant must be reported to the Central Processing System (CPS) through the Electronic Data Exchange, or the SAR must be returned to the CPS.

- Satisfactory Academic Progress (§668.34 and §668.16(e)). The Secretary will not enforce satisfactory academic progress standards in the situation in which a student fails to meet the school's standards due to the disaster. The school must document in the student's file that the student's failure to maintain satisfactory academic progress was due to the natural disaster.

- Transfer Students (§668.19). The school to which a student is transferring must make an effort to obtain the records and documentation required to disburse or deliver Title IV aid. If the financial aid history is not available as a result of the disaster, the school to which the student transferred will not be held responsible for collecting the information nor will the student be held responsible for providing the information. Any school affected by this situation should document that the information is unavailable due to the disaster.
- Tuition Refunds or Credits (§668.22 and Appendix A). The Secretary strongly encourages a school to provide a full refund of required tuition and fees or a credit in a comparable amount against future tuition and fees to a student who has been unable to complete course requirements because he or she is a victim of the disaster. Proprietary institutions of higher education and postsecondary vocational schools as defined by §668.8 are permitted to exclude from their calculation of the completion rate the number of regular students who withdrew from or dropped out during the award year and received a refund of 100% under §668.8(f).
- Verification (Part 668 Subpart E). The Secretary will not enforce the verification requirements during the award year for those applicants selected for verification whose records were lost or destroyed because of the disaster. A school must document the student's file when it does not perform verification for this reason. For these students, Verification Status Code "S" may be used to report a Federal Pell Grant disbursement.

Federal Pell Grant Program

- Deadline for Reporting Disbursement Records (§690.83). Normally, a school must submit to the Department a disbursement record for a student not later than 30 calendar days after the school makes a payment to the student. In addition, if the school becomes aware that previously made reports of payments or expected payments for a student are no longer accurate, the school must submit an accurate disbursement record for that student to the Department not later than 30 calendar days after becoming aware of the need to make the change.

For schools impacted by Hurricane Floyd, the following conditions will apply:

(1) The Secretary will not enforce the deadline that a school submit a disbursement record for 30 days, but will instead require submission of this data within 90 days after the school makes a payment to the student.

(2) If a school finds it impossible to meet this 90-day requirement, the Secretary will consider a request for a further extension on a "case-by-case" basis.

(3) The Secretary will consider, on a case-by-case basis, a request for an extension to the deadline for submitting a student's disbursement record as established in §690.83.

- Reporting Deadlines (Notices of Deadline Dates). The Secretary will consider carefully, on a "case-by-case" basis, a request for an extension based on the effect of the disaster on any school's ability to meet Federal Pell Grant reporting deadlines. This includes any final reports for the 1998-99 award year.

Campus-Based Programs

Common Items

- Allocation Reduction Due to Underutilization (§673.4(d)(3)). The HEA requires that if a school returns more than 10 percent of its 1999-2000 allocation under the Federal Perkins Loan, Federal Work-Study (FWS), or Federal Supplemental Educational Opportunity Grant (FSEOG) program, the school's allocation for that program for the 2001-20002 award year will be reduced by the amount unexpended. The HEA authorizes the Secretary to waive this reduction for a school if enforcing the reduction would be contrary to the interest of the program. The Secretary would consider the failure of a school to expend funds due to this natural disaster as an appropriate waiver criterion. A deadline date for submission of this waiver request will be published at a later date. A school must submit a request for a waiver of the underutilization penalty along with a statement that explains the reason for failure to comply with the requirement.
- Reporting Deadlines. The Secretary will consider carefully, on a "case-by-case" basis, the effect of the disaster on any school's ability to meet required reporting deadlines.

Because the deadline for filing the Fiscal Operations Report and Application to Participate (FISAP) is October 1, 1999, the Secretary will not enforce this deadline for schools, due to the natural disaster, that are unable to transmit the completed FISAP data. The Secretary will allow these schools to submit their completed FISAP by October 22, 1999. *Schools choosing to utilize this extension need to contact Joann Pease at (202) 708-9797 and let her know of their decision so that no penalties will be assessed for late filing.*

Federal Work-Study (FWS) Program

- Community Services (§675.2). The Secretary encourages schools to employ their FWS students in the cleanup and relief efforts for the communities affected by the disaster. These efforts would be considered part of the school's community services activities under the FWS Program.
- Community Service Expenditure Requirement (§675.18(g)). The HEA requires a school to use at least 5 percent of the total amount of its FWS Federal funds granted for an award year to compensate students employed in community service, except that the Secretary may waive this requirement if the Secretary determines that enforcing it would cause hardship for students at the school. The Secretary would consider failure of a school to expend at least 5 percent for community service due to this natural disaster as an appropriate basis for a waiver. A school must submit a request for a waiver along with a statement that explains the reason for failure to comply with the requirement.

Federal Perkins Loan Program

- Borrowers in an "In-School" Status (§674.31). The Secretary will consider that any borrower who was in an "in-school" status at the time of the natural disaster and was unable to complete course requirements or enroll in classes will continue to be in an "in-school" status during the period of disaster-related nonattendance, or until such time as the borrower withdraws. The period of disaster-related nonattendance should not require a borrower to enter or use any of his or her grace period. The school should document this reason for continued "in-school" status in the student's file.
- Borrowers in Default-Due Diligence. The Secretary will temporarily refrain from enforcing the billing and collection activities required by Part 674 Subpart C - Due Diligence. A school may suspend the collection activities for borrowers already in default at the time of the natural disaster. A school must document the reason for suspension of these activities in the borrower's file.

- Borrowers in Initial or Post-Deferment Grace Periods (§674.42). The Secretary will temporarily refrain from requiring a school to comply with §674.42(b), which requires a school to make contact with the borrower during an initial or post-deferment grace period. A school must document the reason for suspension of these activities in the borrower's file.
- Borrowers in Repayment (§674.33). The Secretary authorizes the school to grant a forbearance to a borrower who is in repayment at the time of the natural disaster but is unable to continue to repay the loan due to the disaster. The legislation governing the Perkins Loan Program requires that interest will accrue during any period of forbearance. A borrower may request this forbearance orally, or in writing, and will not be required to submit documentation to be considered eligible for this forbearance. This period of forbearance is counted toward the 3-year maximum limit on the number of years of forbearance that may be granted to a borrower. A school must document this forbearance in the borrower's file.

Federal Family Education Loan (FFEL) Program

- Converting the Borrower to Repayment (§682.209(a) and §682.210). The Secretary believes that it is in the best interest of the FFEL Program to consider each Federal Stafford loan that has not entered repayment and that was not in a default status on the date the borrower's attendance at the school was interrupted due to the disaster to be (or have been) in an "in-school" status and to continue in that status until the school resumes normal operations. This period of disaster-related nonattendance should not result in a borrower entering or using any of his or her grace period.

Any Federal Stafford Loan borrower who is in school, but has entered repayment status on an earlier loan and is not in a default status on the date attendance at the school was interrupted due to disaster conditions is to be continued in an "in-school" deferment status during the period of disaster-related nonattendance. This interim period of nonattendance should not result in a borrower being forced back into repayment.

A borrower whose FFEL loan was in an "in-school" deferment status on the date the disaster conditions interrupted normal operations at the school shall be treated as if the loan continues in an "in-school" deferment status during this same period of disaster-related nonattendance.

- Guaranty Agency and Lender Disbursement of Loan Proceeds. The Secretary authorizes lenders not to disburse loan proceeds to schools in the affected area according to the originally established disbursement schedules as required under §682.207(b)(1)(i)(B) if they have been informed that a school has delayed opening for a scheduled term or has ceased operations for an undetermined period of time. Lenders should await revised disbursement schedules from the affected schools. Schools are also urged to request revised disbursement dates.

The Secretary instructs guaranty agencies and lenders to revise information on loan periods, graduation dates, and so forth, on the loan records related to these disbursements as the information becomes available. This instruction means that a borrower need not reapply for the loan. This also will allow a student to receive his or her loan proceeds according to a schedule that fits the school's new academic schedule.

Waivers applicable to FFEL schools located in a disaster area.

- Return of Funds to a Student or to a Lender (§668.22, and §682.607). The Secretary will allow modified timelines for the return of undisbursed funds as specified under the Cash Management section of this letter. The Secretary will not enforce the usual deadlines by which an affected school

must pay a refund that is due to a student or to a lender after the student's withdrawal as determined under §668.22(j)(3). Instead, the Secretary will require the school to pay a refund to the student within 90 days (instead of 30 days) and to the lender within 120 days (instead of 60 days) after the student's withdrawal.

- Submission of Student Status Confirmation Reports (§682.610(c)). The Secretary will not enforce the usual deadline for schools to complete and submit required student status confirmation reports to the Secretary or guaranty agency within 30 days of the school's receipt of the report. The Secretary will instead require completion and submission of these reports within 90 days. Reports of changes of borrower status, if the school does not expect to submit its next report within the next 60 days, may also be submitted within 90 days (instead of 30 days).

William D. Ford Federal Direct Loan Program

- Return of Funds to a Student or to the Secretary (§668.22 and §685.305). The Secretary will allow modified timelines for the return of undisbursed funds as specified under the Cash Management section of this letter. The Secretary will not enforce the usual deadlines by which an affected school must pay a refund that is due to a student or to the Secretary after the student's withdrawal (as determined under §668.22(j)(3)). Instead, the Secretary will require the school to pay a refund to the student within 90 days (instead of 30 days) and to the Secretary within 120 days (instead of 60 days) after the student's withdrawal.
- Repayment of Direct Subsidized and Direct Unsubsidized Loans (§685.204 and §685.207). The Secretary believes that it is in the best interest of the Direct Loan Program to consider each Direct Subsidized and Direct Unsubsidized loan that has not entered repayment and that was not in a default status on the date the borrower's attendance at the school was interrupted due to the disaster to be (or have been) in an "in-school" status and to continue in that status until the school resumes normal operations. This period of disaster-related nonattendance should not result in a borrower entering or using any of his or her grace period.

Any Direct Subsidized and Direct Unsubsidized loan borrower who is in school, but has entered repayment status on an earlier loan and is not in a default status on the date attendance at the school was interrupted due to disaster conditions is to be continued in an "in-school" deferment status during the period of disaster-related nonattendance. This interim period of nonattendance should not result in a borrower being forced back into repayment.

Each Direct Subsidized and Direct Unsubsidized Loan that was in an "in-school" deferment status on the date the disaster conditions interrupted normal operations at the school shall be treated as if the loan continues in an "in-school" deferment status during this same period of disaster-related nonattendance.

- Submission of Promissory Note, and Loan Origination and Disbursement Records (§685.301(d)). This section requires that a school that originates a loan must submit the promissory note, loan origination record, and initial and subsequent disbursement records to the Secretary no later than 30 days following the date of disbursement. This section also requires that schools participating under standard origination must submit loan disbursement records to the Secretary no later than 30 days following the date of disbursement. Schools affected by Hurricane Floyd, however, will be required to submit these records within 90 days of the date of disbursement. If a school finds it impossible to meet this 90-day requirement, the Secretary will consider a request for a further extension on a "case-by-case" basis.

- Submission of Student Status Confirmation Reports (§685.309(b)). The Secretary will not enforce the usual deadline for schools to complete and submit required student status confirmation reports to the Secretary within 30 days of the school's receipt of the report. The Secretary will instead require completion and submission of these reports within 90 days. Reports of changes of borrower status, if the school does not expect to submit its next report within the next 60 days, may also be submitted within 90 days (instead of 30 days).

For additional information or if you have any questions, please contact the Department's SFA Customer Support Inquiry Service staff. Staff members are available Monday through Friday between the hours of 9:00 AM and 5:00 PM (Eastern Time) at 1-800-433-7327. After hours calls will be accepted by an automated voice response system. Callers leaving their name and phone number will receive a return call the next business day. You may FAX an inquiry to the Customer Support Inquiry Service at (202) 260-4199, or E-mail the staff at CSB@ed.gov.

We hope that these options for regulatory relief will be of use to you in assisting students whose families have been affected by the disaster.

Sincerely,

Greg Woods
Chief Operating Officer
Student Financial Assistance